

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

REBA SMITH,

(b) County of Residence of First Listed Plaintiff Suffolk, New York
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Cellino & Barnes, P.C.
420 Lexington Avenue, Suite 2140
New York, NY 10170

DEFENDANTS

BANQUE de MONTREAL, ISHAN A. AL-JOUNDI et al.,

County of Residence of First Listed Defendant Country of Canada
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input checked="" type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input checked="" type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S. Code Statute 1332(a)(1)(c)(1)(c)
 Brief description of cause:
Motor Vehicle Accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

REBA SMITH,

Plaintiff,

Docket No.:

v.

COMPLAINT AND JURY DEMAND

BANQUE de MONTREAL, ISHAN A. AL-JOUNDI
and ABC COMPANIES 1-10, names being
fictitious.

Defendants.

Plaintiff, by their attorneys CELLINO & BARNES, P.C., alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, REBA SMITH, presently, and has been at all times herein mentioned, a resident and citizen of the State of New York and at all times material herein, is competent to bring suit in her individual capacity.

2. At all times herein relevant, defendant, BANQUE de MONTREAL was a foreign corporation based in the State of Quebec, Country of Canada.

3. At all times herein relevant, defendant, BANQUE de MONTREAL is a foreign corporation based in the State of Quebec, Country of Canada.

4. That at all times herein relevant, defendant, BANQUE de MONTREAL committed a tortious act within the State of New Jersey.

5. That at all time herein relevant, defendant, BANQUE de MONTREAL committed a tortious act without the State of New Jersey causing injury to person or property within the State of New Jersey.

6. That by virtue of the allegations above, defendant, BANQUE de MONTREAL is subject to the laws of the State of New Jersey pursuant to Rule 4:3.

7. At all times herein relevant, defendant, ISHAN A. AL-JOUNDI is an adult individual and a resident of the Country of Canada, State of Montreal.

8. ABC COMPANIES 1-10 said names being fictitious are named as defendants in order to preserve the statute of limitations against unknown companies.

9. Damages alleged by the plaintiffs exceed the sum or value of \$75,000.00, exclusive of interest and costs, pursuant to 28 U.S.C. Section 1332(a) and Fed. Rules of Civil Procedure 8(a) (1).

10. The parties have diversity of jurisdiction and the amount in controversy exceeding the jurisdictional limits confers this Court with jurisdiction over the subject matter of this Complaint and over the parties hereto under 28 U.S.C. Section 1332 and Fed. Rules of Civil Procedure 8(a) (1).

11. Venue is proper and appropriate in United States District Court District of New Jersey because the motor vehicle accident, which is the subject matter of this Complaint, occurred in U.S. District of New Jersey.

FACTUAL BACKGROUND

12. On September 14, 2016 defendant, BANQUE de MONTREAL was the owner and/or lessee of a certain 2017 ISU NU4 bearing Quebec, Canada license plate No.: L689129.

13. On September 14, 2016 defendant, ISHAN A. AL-JOUNDI was the operator of a certain 2017 ISU NU4 bearing Quebec, Canada license plate No.: L689129 owned and/or leased by BANQUE de MONTREAL.

14. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, operated the vehicle described in Paragraph 12 to 13 above with the full knowledge of the owner, defendant, BANQUE de MONTREAL.

15. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, operated the vehicle described in Paragraph 12 to 13 above with the full knowledge of the owner, defendant, BANQUE de MONTREAL.

16. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, operated the vehicle described in Paragraphs 12 to 13 above with the full permission of the owner, defendant, BANQUE de MONTREAL.

17. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, operated the vehicle described in Paragraphs 12 to 13 above with the full permission of the owner, defendant, BANQUE de MONTREAL.

18. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, was acting within the course and scope of his employment for defendant, BANQUE de MONTREAL.

19. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, was an agent of defendant, BANQUE de MONTREAL.

20. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, was a servant of defendant, BANQUE de MONTREAL.

21. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, was an employee of defendant, BANQUE de MONTREAL.

22. On September 14, 2016, plaintiff, REBA SMITH, was the owner/driver of a certain 2005 Mercedes bearing New York license plate No.: FXD4364.

23. On September 14, 2016, defendant, ISHAN A. AL-JOUNDI, operated the vehicle described in Paragraphs 12 to 13 herein above in a southbound direction of the New Jersey Turnpike in the State of, New Jersey.

24. On September 14, 2016, plaintiff, REBA SMITH was driving in a southbound direction of the New Jersey Turnpike in the State of, New Jersey.

25. On September 14, 2016, the vehicle operated by defendant ISHAN A. AL-JOUNDI as described in Paragraphs 12 to 13 herein above, came into contact with plaintiff's vehicle. As a result of the aforementioned occurrence plaintiff sustained injuries.

AS AND FOR A FIRST CAUSE OF ACTION

26. On September 14, 2016, the vehicle operated by defendant, ISHAN A. AL-JOUNDI, as described in Paragraphs 12 to 13 herein above, came into contact with plaintiff's vehicle on the New Jersey Turnpike traveling in a southbound direction. As a result of the aforementioned occurrence, plaintiff, REBA SMITH sustained injuries.

27. The aforementioned occurred as a result of the negligence and/or recklessness of defendants without any negligence attributable in any measure to plaintiff, REBA SMITH.

28. Plaintiff, REBA SMITH, has sustained compensable injuries as defined by the New Jersey State Insurance Law.

29. By the aforesaid acts and omissions of defendants herein, plaintiff, REBA SMITH, has been directly and legally caused to suffer pain and suffering and actual damages including, but not limited to, loss of earnings and future earning capacity, medical expenses, attorney's fees costs of suit and other pecuniary loss not presently ascertainable for which the plaintiff will seek leave of the Court to amend once ascertained.

30. By the aforesaid acts and omissions of defendants, plaintiff REBA SMITH, has been directly and legally caused to suffer physical injuries, including, but not limited to, injuries to his neck, back and shoulders, all of which individually, or in combination, satisfy the requirements of compensable injuries as defined by the New Jersey State Insurance Law.

31. As a further direct and legal result of the acts and conducts of the defendants, as aforesaid, plaintiff, REBA SMITH, was caused to and did suffer from severe physical, emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact extent and nature of said injuries is presently unknown to plaintiff, REBA SMITH, who will seek leave of this court to assert the same when they are ascertained. Plaintiff, REBA SMITH, does not know at

this time the exact duration or permanence of said injuries but plaintiff is informed and believes, and therefore alleges, that some, if not all, of his injuries are reasonably certain to be permanent.

WHEREFORE, plaintiff REBA SMITH demand judgment jointly and severally and/or individually and/or vicariously, against the defendants BANQUE de MONTREAL, ISHAN A. AL-JOUNDI and ABC COMPANIES 1-10, on all counts for damages, costs, interest, counsel fees and all other relief this Court deems just and proper.

DATED: New York, New York
August 25, 2017


CELLINO & BARNES, P.C.

BY: JOHN H. SHIELDS, Esq. (JS 7313)
Attorneys for Plaintiffs
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JURY DEMAND

Plaintiffs do hereby demand a trial by a jury on all issues so triable.


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Dated: New York, New York
August 25, 2017